

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KEVIN OMAR HARPER,

Plaintiff,

v.

Case No. 20-cv-0875-bhl

MICHAEL GIESE, et al.,

Defendants.

NOTICE AND ORDER

Plaintiff Kevin Omar Harper, who is representing himself, filed a complaint under 42 U.S.C. §1983. On April 2, 2021, Defendants filed a motion for summary judgment on the ground that Harper failed to exhaust the available administrative remedies before initiating this lawsuit. Dkt. No. 40. Under Civil L. R. 56(b)(2), Harper's response materials are due within thirty days of service of the motion, or by **May 3, 2021**. In responding to the motion, Harper must respond to each of the proposed findings of fact by agreeing with each proposed fact or explaining why he disagrees with a particular proposed fact. If he does not indicate one way or the other, the Court will assume that he agrees with the proposed fact. Harper must support every disagreement with a proposed fact by citing to evidence. He can do that by relying on documents that he attaches to his response or by telling the Court his version of what happened in an affidavit or an unsworn declaration under 28 U.S.C. §1746.¹ An unsworn declaration is a way for a party to tell his side

¹ At the bottom of his declaration, he should state: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]. [Signature]." 28 U.S.C. §1746(2).

of the story while declaring to the Court that everything in the declaration is true and correct. Harper must also respond to the legal arguments in the brief.

If Harper fails to respond to the motion by the deadline, the Court will accept all facts asserted by Defendants as undisputed, which will likely result in summary judgment being granted in Defendants' favor and the case being dismissed. Further, the Court reminds Harper that, under Civil L. R. 7(d), his failure to respond to Defendants' motion may be sufficient cause for the Court to grant the motion as a sanction for noncompliance with Civil L.R. 56 and this order.

If Harper believes he needs additional time to prepare his response materials, he must file a motion asking the Court to extend the deadline *before* his response materials are due. If he files such a motion, he must explain why he needs additional time and how much additional time he needs.

IT IS THEREFORE ORDERED that, if by **May 3, 2021**, Harper does not respond to the summary judgment motion or does not request additional time to do so, the Court will accept all facts asserted by Defendants as undisputed and may grant the motion as a sanction for noncompliance. *See* Civil L.R. 7(d).

Dated at Milwaukee, Wisconsin this 5th day of April, 2021.

BY THE COURT:

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge